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JUL 13 2006

In re Application of
Jaworski et al
Application No. 09/640,809
Filed: August 16, 2000
Attorney Docket No. 199-1721 (018)

DECISION ON PETITION

This is a decision on the request for reconsideration of the petition to withdraw the holding of abandonment of the above-identified application filed October 14, 2003. The petition under 37 C.F.R. § 1.181, filed April 28, 2002, to withdraw the holding of abandonment was dismissed on August 8, 2003.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the Notice of Non-Compliant Amendment within the statutory period of one month from the mailing date of April 19, 2002. The application became abandoned on May 20, 2002 by operation of law.

Petitioner states that the Notice of Non-Compliant Amendment was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the Notice of Non-Compliant Amendment was not received. The petition is accompanied by a copy of the docket record where the non-received notice would have been entered.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Non-Compliant Amendment was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received, had it been received, and docketed must be

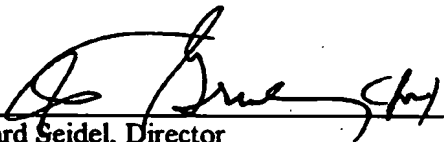
attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c).

The petition was dismissed because the docket record where the non-received Notice of Non-Complaint Amendment would have been entered needed further explanation. Petitioner did not explain the inconsistency of the docket number for this application and the docket number used in the docket record submitted.

The request for reconsideration satisfies the requirement that the petitioner state that the copy of the docket records are where the non-received Office action would have been entered, had it been received, and docketed as set forth in M.P.E.P. §711.03(c).

The application file is being forwarded to the Technical Support staff for re-mailing the Notice of Non-Complaint Amendment. The period for response will be reset to run from the date the Notice is remailed.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



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